IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

THURSDAY, THE 9TH AUGUST 2007 / 18TH SRAVANA 1929

EFA.No. 8 of 2000()

AGAINST THE ORDER DATED 15/02/2000 IN EP.388/1998 IN OS.461/1996 of PRL.SUB COURT, KOZHIKODE

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APPELLANTS/RESPONDENTS 2 TO 5 IN E.P

1.PUTHENPURAYIL MAMMU, AGED 61 YEARS
S/O V.K.SAVANKUTTY, RESIDING AT
CHULLIYOD ROAD, NEAR CIVIL STATION
NEDUNGATTOOR AMSOM DESOM OF KOZHIKODE

2. PUTHENVEETTIL RAMLATH, AGED 57 YEARS
W/O MAMMU, RESIDING AT NEDUNGATTOOR
AMSOM DESOM OF KOZHIKODE TALUK

3. MUTHIRAKKAL PUTHENVEETTIL NOWFEL
AGED 37 YEARS, S/O MAMMU, RESIDING AT
NEDUNGATTOOR AMSOM DESOM OF
KOZHIKODE TALUK

4. MUTHIRAKKAL PUTHENVEETTIL AHSAM SHABNAM
AGED 30 YEARS, D/O MAMMU, RESIDING AT
NEDUNGATTOOR AMSOM DESOM OF KOZHIKODE

BY ADV. SRI.V.V.SURENDRAN
SRI.P.A.HARISH

RESPONDENTS/RESPONDENTS

1. ROBERT S. SREENIVASAN, AGED 71 YEARS
S/O LATE SREENIVASAN, RESIDING AT
CHEVAYOOR AMSOM DESOM OF KOZHIKODE TALUK

2. MRS. LEELA ROBERT, AGED 61 YEARS
W/O ROBERT S. SREENIVASAN, RESIDING
AT CHEVAYOOR AMSOM DESOM OF KOZHIKODE TALUK

3. M/S G.N.S.NIDHI LTD, REPRESENTED BY
ITS MANAGING DIRECTOR, BRANCH OFFICE
AT DELMA COMPLEX, MAVOOR ROAD, KOZHIKODE

THIS EXECUTION FIRST APPEAL HAVING BEEN FINALLY HEARD ON 09/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.PADMANABHAN NAIR, J.

E.F.A. No. 8 of 2000

Dated this the 9th day of August 2007

JUDGMENT

This Execution First Appeal 8/2000 arise from an order passed in E.P 388/1998 in O.S 461/1996.

2. The suit was filed on 8-10-1996 by the plaintiffs for recovery of Rs.1,21,133/-. The suit was decreed on 30-6-1997. The decree holders filed E.P 388/1998 for execution of the decree passed in the case.

3. Originally Section 13 (1) of the Civil Courts Acts 1957 provided that appeals from decrees in suit, the subject mater of which did not exceed Rs,7,500/- lay to District court. The limit was enhanced to Rs.10,000/- and to Rs. 25,000/- with effect from 6-1-1984. This limit was again raised to Rs. 2 lakhs with effect from 27-3-1996. O.S. 461/1996 was filed after 27-3-1996 The value of the subject matter was only Rs. 1,21,133/-. So this appeal ought to have been filed before the District Court and it is not maintainable before this Court. **In Kunnappadi Kalliani Vs.Lekharaj 1996(2) KLT 106** it was held that appeals from decrees of Subordinate judge's court instituted after 27-3-1996 are to be filed before the District Court. So this appeal ought to have been filed before the District Court.

4. The learned counsel for the appellants submits that in case this Court finds that the appeal is not maintainable, a certified copy of the order, the appeal memorandum and connected papers may be returned to the appellants for presentation before the appropriate court. Considering the facts and circumstances of the case, I am of the view that since the appeal is not maintainable before this court, it is only just and proper that the registry return the certified copy of the order, the appeal memorandum and connected papers to the appellants so as to enable them to file a proper appeal before the District court. In case the appellants file an appeal with a petition to condone the delay stating that the delay occurred on account of the fact that this appeal was filed before this court on 5-4-2000 and is bonafide prosecuting the same,the court shall take into account that fact and appropriate orders passed. The registry shall return the certified copy of the order, appeal memorandum and connected papers to the appellants

Order in C.M.P No. 2256 of 2000 will stand dismissed

K.PADMANABHAN NAIR,JUDGE

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